Simon v. Adzilla, Inc [New Media] et al

Doc. 65

Exhibit A

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE FACEBOOK, INC.,	)	C-07-01389-JW
PLAINTIFF,	)	JUNE 23, 2008
V.	)	**SEALED**
CONNECTU, LLC, ET AL.,	)	PAGES 1-79
DEFENDANTS.	)	

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THE PROCEEDINGS WERE HELD BEFORE

THE HONORABLE UNITED STATES DISTRICT

JUDGE JAMES WARE

A P P E A R A N C E S:

FOR THE PLAINTIFF: ORRICK, HERRINGTON & SUTCLIFFE
BY: I. NEEL CHATTERJEE
MONTE M.F. COOPER
SUSAN D. RESLEY
1000 MARSH ROAD
MENLO PARK, CALIFORNIA 94025

FOR THE DEFENDANTS: BOIES, SCHILLER & FLEXNER
BY: DAVID A. BARRETT
EVAN ANDREW PARKE
STEVEN C. HOLTZMAN
575 LEXINGTON AVENUE
7TH FLOOR
NEW YORK, NEW YORK 10022

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER: IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

APPEARANCES: (CONT'D)

FOR THE DEFENDANTS:

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER
BY: SCOTT R. MOSKO
JOHN F. HORNICK
STANFORD RESEARCH PARK
3300 HILLVIEW AVENUE
PALO ALTO, CALIFORNIA 94304

FENWICK & WEST
BY: KALAMA LUI-KWAN
555 CALIFORNIA STREET
12TH FLOOR
SAN FRANCISCO, CALIFORNIA
94104

ALSO PRESENT:

BLOOMBERG NEWS
BY: JOEL ROSENBLATT
PIER 3
SUITE 101
SAN FRANCISCO, CALIFORNIA
94111

THE MERCURY NEWS
BY: CHRIS O'BRIEN
SCOTT DUKE HARRIS
750 RIDDER PARK DRIVE
SAN JOSE, CALIFORNIA 94190

THE RECORDER
BY: ZUSHA ELINSON
10 UNITED NATIONS PLAZA
SUITE 300
SAN FRANCISCO, CALIFORNIA
94102

CNET NEWS
BY: DECLAN MCCULLAGH
1935 CALVERT STREET, NW #1
WASHINGTON, DC 20009

SAN JOSE, CALIFORNIA JUNE 23, 2008

P R O C E E D I N G S

(WHEREUPON, COURT CONVENED AND THE FOLLOWING PROCEEDINGS WERE HELD:)

THE CLERK: CALLING CASE NUMBER 07-1389, THE FACEBOOK, INC., VERSUS CONNECTU, LLC.

THE COURT: DO YOU KNOW THE PARTIES?

THE CLERK: THEY'RE SITTING OVER HERE (INDICATING).

LIZ.

THE CLERK: YES. TESTING ONE, TWO.

THE COURT: STATE YOUR APPEARANCES.

MR. CHATTERJEE: GOOD MORNING, YOUR HONOR. NEEL CHATTERJEE REPRESENTING FACEBOOK, MARK ZUCKERBERG, A NUMBER OF OTHER INDIVIDUAL PARTIES TO THE MASSACHUSETTS ACTIONS EXCEPT EDUARDO SAVERIN.

WITH ME TODAY ARE MY COLLEAGUES SUSAN RESLEY AND MONTE COOPER WHO WILL BE ASSISTING ME IN THE HEARING TODAY.

THE COURT: VERY WELL.

MR. MOSKO: GOOD MORNING. SCOTT MOSKO. LET ME -- THERE'S GOING TO BE A BIT OF AN INTRODUCTION HERE. FOR THE PURPOSES OF THE MOTION THAT FACEBOOK HAS FILED, I AM NOT REPRESENTING

CONNECTU; HOWEVER, I DO REPRESENT CONNECTU IN THE UNDERLYING CASE.

THE COURT: AH.

MR. MOSKO: AND I DO REPRESENT THE OTHER DEFENDANTS.

WITH ME THIS MORNING IS DAVID BARRETT, STEVEN HOLTZMAN, AND EVAN PARKE WHO ARE REPRESENTING CONNECTU ON THE MOTION CONCERNING THE SETTLEMENT ISSUES.

ALSO MY PARTNER JOHN HORNICK.

THE COURT: MR. HORNICK. DO I HAVE A THIRD PARTY?

MR. CHATTERJEE: YOUR HONOR, THERE IS ONE THIRD PARTY HERE WHICH IS ROBERT HAWK, WHO IS FROM THE HELLER EHRMAN FIRM AND HE REPRESENTS EDUARDO SAVERIN IN THE MASSACHUSETTS ACTION.

AND I WANT TO MAKE SURE THAT I UNDERSTOOD CORRECTLY, MR. HORNICK IS NOT ADMITTED IN THIS CASE BUT IN THE MASSACHUSETTS CASE, AND I WANT TO UNDERSTAND IF HE'S REPRESENTING CONNECTU OR CONNECTU AND THE THREE INDIVIDUALS WHO ARE PLAINTIFFS IN THAT CASE.

THE COURT: ALL RIGHT. AND I HAVE KALAMA LUI-KWAN.

MR. LUI-KWAN: YES, YOUR HONOR.

YOUR OPPONENT.

MR. BARRETT: YOUR HONOR, THANK YOU VERY MUCH. DAVID BARRETT FROM BOIES, SCHILLER & FLEXNER REPRESENTING CONNECTU, WHICH I SHOULD NOTE IS THE ONLY PARTY THAT -- ON THE DEFENDANT'S SIDE WHICH IS PROPERLY BEFORE THIS COURT, ALTHOUGH THE PLAINTIFFS ARE ASKING THE COURT TO ENTER AN ORDER THAT WOULD COMPEL THE INDIVIDUAL PRINCIPALS OF CONNECTU TO SIGN CERTAIN DOCUMENTS, THE FACT IS THAT THEY HAVEN'T EVEN SERVED THOSE PEOPLE WITH PROCESS THAT WOULD BRING THEM PROPERLY BEFORE THIS COURT.

SO THAT'S THE REASON THAT I ONLY APPEAR TODAY IN THIS COURT ON BEHALF OF CONNECTU.

SECOND, YOUR HONOR, WITH RESPECT TO MR. CHATTERJEE'S REQUEST, WE DON'T REALLY LITERALLY DO NOT UNDERSTAND WHAT IT IS THAT THE PLAINTIFFS ARE ASKING THIS COURT TO DO.

THE PROPOSED ORDER THAT WAS FILED WITH MR. CHATTERJEE'S MOTION BACK IN APRIL IS AN ORDER THAT DOESN'T EVEN MENTION THE TERM SHEET AND WHICH IS THE DOCUMENT THAT HE SAID YOU COULD, YOU COULD JUST STAPLE TO YOUR ORDER.

THE PROPOSED ORDER, WHAT THEY WERE ORIGINALLY ASKING FOR, DOESN'T EVEN MENTION THAT TERM SHEET.

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE, INCLUSIVE, CONSTITUTED A TRUE, FULL AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED TRANSCRIPTION TO THE BEST OF MY ABILITY.

Irene Rodriguez

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER CSR 8074